

LINDA TATE (“Plaintiff”), by and through her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against BLUESTEM BRANDS, INC. d/b/a FINGERHUT (“Defendant”):

1. Plaintiff's Complaint is based on the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. §227 *et seq.* ("TCPA,").

2. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331. See Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

3. Defendant conducts business in the State of Illinois and as such, personal jurisdiction is established.

1 14. Plaintiff knew Defendant was utilizing an automatic telephone dialing
2 system as each call began with a recording prior to a representative speaking with
3 Plaintiff.
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5 15. Defendant's telephone calls were not made for "emergency purposes".

6 16. Desiring to stop these repeated and unwanted calls, Plaintiff requested
7 that these calls stop immediately in July 2015 shortly after the calls began.
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9 17. However, Defendant failed to restrict its calls to Plaintiff's cellular
10 telephone number and continued to call Plaintiff through October 2015.

11 18. Once Defendant knew its calls were unwanted there was no lawful
12 purpose for these continued calls.
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15 **COUNT I**
16 **DEFENDANT VIOLATED THE**
17 **TELEPHONE CONSUMER PROTECTION ACT**

18 19. Plaintiff incorporates the forgoing paragraphs as though the same
19 were set forth at length herein.

20 20. Defendant initiated multiple automated telephone calls to Plaintiff's
21 cellular telephone using a prerecorded voice.
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23 21. Defendant initiated these automated calls to Plaintiff using an
24 automatic telephone dialing system.

25 22. Defendant's calls to Plaintiff were not made for emergency purposes.

1 23. Defendant's calls to Plaintiff after July 2015 were not made with
2 Plaintiff's prior express consent.

3 24. Defendant's acts as described above were done with malicious,
4 intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights
5 under the law and with the purpose of harassing Plaintiff.
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7 25. The acts and/or omissions of Defendant were done unfairly,
8 unlawfully, intentionally, deceptively and fraudulently and absent bona fide error,
9 lawful right, legal defense, legal justification or legal excuse.
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11 26. As a result of the above violations of the TCPA, Plaintiff has suffered
12 the losses and damages as set forth above entitling Plaintiff to an award of
13 statutory, actual and trebles damages.
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16 WHEREFORE, Plaintiff, Linda Tate, respectfully prays for judgment as
17 follows:
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- 19 a. All actual damages suffered pursuant to 47 U.S.C.
20 §227(b)(3)(A);
21 b. Statutory damages of \$500.00 per violative telephone call
22 pursuant to 47 U.S.C. §227(b)(3)(B);
23 c. Treble damages of \$1,500 per violative telephone call pursuant
24 to 47 U.S.C. §227(b)(3);
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- 1 d. Injunctive relief pursuant to 47 U.S.C. §227(b)(3); and
2 e. Any other relief deemed appropriate by this Honorable Court.
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6 **DEMAND FOR JURY TRIAL**

7 PLEASE TAKE NOTICE that Plaintiff, Linda Tate, demands a jury trial in
8 this case.
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11 RESPECTFULLY SUBMITTED,

12 DATED: November 17, 2017

13 KIMMEL & SILVERMAN, P.C.
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